

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARK WEISS

Plaintiff,

v.

OCWEN LOAN SERVICING,

Defendant.

No. 18-CV-8203 (KMK)

ORDER OF DISMISSAL

KENNETH M. KARAS, United States District Judge:

On April 1, 2018, Plaintiff Mark Weiss (“Plaintiff”) brought suit against OCWEN Loan Servicing (“Defendant”) in state court, pursuing claims for libel, slander, and negligence and alleging that Defendant incorrectly reported Plaintiff’s loan as unpaid. (Dkt. No. 1.) On September 10, 2018, Defendant removed the Action to this Court. (*Id.*)

On February 11, 2019, the Court issued an Order setting a schedule for Defendant’s anticipated Motion To Dismiss. (Dkt. No. 12.) Pursuant to that Order, Defendant’s Motion was due by April 11, 2019; Plaintiff’s Response was due by May 11, 2019, and Defendant’s Reply was due May, 25, 2019. (*Id.*) Defendant timely filed its Motion on April 11, 2019, but due to a filing error, refiled the Motion on June 12, 2019. (Dkt. Nos. 13–14.) Plaintiff never filed a Response.

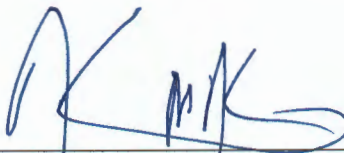
Several weeks ago, a member of Chambers staff called Mr. Morse Geller, Counsel of Record for Plaintiff. Mr. Geller informed Chambers that Plaintiff was no longer pursuing the Action. Mr. Geller also stated that he would file a letter informing the Court of this fact and requesting dismissal. To date, Plaintiff has not filed such a letter. Since that initial conversation, Chambers has called Mr. Geller multiple times, and left messages, on both his cellular and work

telephone numbers as listed on previous submissions. (*See* Dkt. No. 10.) In light of Plaintiff's counsel's statement that Plaintiff is not pursuing the Action, and in light of the absence of any further communication with the Court, the Court dismisses the Action pursuant to Plaintiff's request. Fed. R. Civ. P. 41(a)(2) ("[A]n action may be dismissed at the plaintiff's request . . . by court order, on terms that the court considers proper."). Dismissal is without prejudice.

The Clerk of Court is directed to terminate the pending Motion (Dkt. No. 14), and close the case.

SO ORDERED.

Dated: February 26, 2020
White Plains, New York



KENNETH M. KARAS
UNITED STATES DISTRICT JUDGE